

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

**IN RE NAMENDA INDIRECT PURCHASER  
ANTITRUST LITIGATION**

SBF Action

---

)  
)  
)  
) **No.: 1:15-cv-06549-CM-RWL**  
)  
)  
)  
)

**END-PAYOR CLASS PLAINTIFF’S UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT WITH  
TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES  
LTD., BARR PHARMACEUTICALS, INC. (n/k/a Barr Pharmaceuticals, LLC) AND  
COBALT LABORATORIES, INC. (n/k/a Cobalt Laboratories, LLC);  
CERTIFICATION OF SETTLEMENT CLASS; APPOINTMENT OF CLASS  
REPRESENTATIVES AND CLASS COUNSEL;  
DEFERRAL OF NOTICE TO THE CLASS; AND STAY OF PROCEEDINGS**

Pursuant to Federal Rule of Civil Procedure 23, the End-Payor Class Plaintiff (“EPP Class”) respectfully moves for entry of a Preliminary Approval Order, appended hereto, which provides for:

- (a) Certification of a settlement class;
- (b) Appointment of the named EPP Class Plaintiff as representative of the Class;
- (c) Appointment as Co-Lead Counsel, the lawyers whom the Court previously appointed to those interim positions;
- (d) Preliminary approval of the proposed Settlement Agreement between the EPP Class and Teva Defendants;
- (e) deferring notice to the Class;
- (f) Appointment of A.B. Data, Ltd. to serve as claims administrator and to assist Class Counsel in disseminating Class Notice;
- (g) Appointment of Bank Leumi USA as escrow agent and the Escrow Agreement entered into between and among the Settling Parties;
- (h) Staying further proceedings against Teva Pharmaceuticals USA, Inc., Teva Pharmaceutical Industries, Ltd., Barr Pharmaceuticals, Inc. (n/k/a Barr Pharmaceuticals, LLC), Cobalt Laboratories, Inc. (n/k/a Cobalt Laboratories, LLC), except as provided in the Settlement Agreement to implement the agreement.

In support of this motion, the EPP Class relies on the accompanying Joint Declaration of Marvin A. Miller and Peter Safirstein and the accompanying Memorandum of Law.

Plaintiff and the EPP Class also attach for the Court’s consideration a Proposed Order.

The proposed Settlement Agreement is attached as Exhibit 1 to the Joint Declaration of Marvin A. Miller and Peter Safirstein.

Dated: August 28, 2020

Respectfully submitted,

**Safirstein Metcalf LLP**

By: s/Peter Safirstein

Peter Safirstein

Elizabeth Metcalf

350 5th Ave, 59<sup>th</sup> Floor

New York, NY 10118

Telephone: (212) 201-2845

Email: psafirstein@safirsteinmetcalf.com

Email: emetcalf@safirsteinmetcalf.com

**Miller Law LLC**

By: s/Marvin A. Miller

Marvin A. Miller

Lori A. Fanning

115 S. LaSalle Street, Suite 2910

Chicago, IL 60603

Telephone: (312) 332-3400

Email: mmiller@millerlawllc.com

Email: LFanning@millerlawllc.com

***Co-Lead Counsel for End-Payor Plaintiff  
and the EPP Class***

Lloyd Constantine

Ankur Kapoor

Ethan E. Litwin

**Constantine Cannon LLP**

335 Madison Avenue

New York, New York 10017

Telephone: (212) 350-2700

lconstantine@constantinecannon.com

akapoor@constantinecannon.com

elitwin@constantinecannon.com

***Counsel for Plaintiff***